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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,688	11/26/2003	Peter Gaal	030153	8929
23696 7590 02/02/2011 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER HO, HUY C				
ART UNIT 2617		PAPER NUMBER		
NOTIFICATION DATE 02/02/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/723,688

**Applicant(s)**

GAAL ET AL.

**Examiner**

HUY C. HO

**Art Unit**

2617

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 11 January 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-31, 37-42  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Patrick N. Edouard/  
Supervisory Patent Examiner, Art Unit 2617

/Huy C Ho/  
Examiner, Art Unit 2617

Continuation of 11, does NOT place the application in condition for allowance because: As for arguments that "Kim's supplemental channel appears to require a full-rate Walsh code, ... in Lindskog the sub-codes on the Walsh code tree are not configured to permit full rate transmissions, and applicant were attempting to show that the sub-codes of Lindskog would not be capable of supporting Kim's supplemental channel. As for the claimed limitations for all independent claims and dependent claims in the current application, the claims recited:

A method of communications, comprising: allocating a first code to a first subscriber station belongs to a first group; assigning a first sub-code derived from the first code to support a dedicated channel to the first subscriber station; assigning a second code to support a dedicated channel to a second subscriber station; and assigning a second sub-code derived from the first code to support a supplemental channel to the second subscriber station, wherein the first and second sub-codes are restricted to lower data-rate transmissions as compared to the first code.

Technically, the claims recite allocating codes from a plurality of orthogonal codes to each subscriber in a first group and a second group, e.g., a first subscriber in the first group with "a first code" or "a first sub-codes" derived from the first code to support on a dedicated channel. The system allocates a second sub-code derived from the first code to a second subscriber to support a communication channel or a supplemental channel. A second code is assigned to a second subscriber to support a dedicated channel, and the first and second sub-codes are at lower data rate transmissions comparing to the first code.

Lindskog teaches allocation of orthogonal codes and sub-codes to subscribers where in figures 2 and 4A, Lindskog teaches and discloses a parent code comprising children codes are assigned to a subscriber for a communications channel, e.g., a parent code C11 and children codes C21, C81, C82 will be assigned to a subscriber when they are available. The codes at a higher level in the code tree have higher bit rate than the lower codes in the code tree based on the standard of the Orthogonal Variable Spreading Factor OVVSF (Lindskog, figures 2 and 4A, paragraphs [2], [27]-[28], [43], [53]). Therefore, Lindskog discloses allocating a first code and a first sub-code to a first subscriber, assigning a second code to a second subscriber, on communications channel and wherein the sub-codes are restricted to lower data rate transmissions comparing to the first code. Lindskog did not teach a second sub-code, or in other words, another sub-code derived from a parent code to support a supplemental channel to a subscriber. Kim teaches and discloses Walsh codes are assigned to subscribers on dedicated channels (or other names: common channels), where Kim discloses that some unused orthogonal codes from a plurality of orthogonal codes will be assigned and used for the supplemental channel (see Kim, col 6 lines 40-45). Therefore, in combination, Lindskog in view of Kim, teaches and discloses the argued claimed features as claimed in independent claims 1, 7, 19, 25, 37-41.